

SHB 1366 - H AMD 409

By Representative Pearson

NOT CONSIDERED 04/22/2011

1 Strike everything after the enacting clause and insert the
2 following:

3
4 "NEW SECTION. **Sec. 1.** This chapter may be known and cited as the
5 limited service pregnancy center accountability act.

6
7 NEW SECTION. **Sec. 2.** (1) The legislature finds that:
8 (a) Health care information is personal and sensitive information
9 that if improperly used, released, or withheld from a patient may do
10 significant harm to a patient's interests in privacy, health care, or
11 other interests;

12 (b) Some limited service pregnancy centers have misled people
13 about the nature of their services, and have withheld health care
14 records, including the results of pregnancy tests, from individuals
15 seeking services; and

16 (c) Seeking or obtaining health care is fundamental to public
17 health and safety.

18 (2) Therefore, the legislature finds it to be of substantial
19 public importance, significantly affecting the safety and health of
20 state residents, that limited service pregnancy centers operating in
21 Washington state provide truthful information about the services they
22 offer, and that these centers maintain the privacy of a person's
23 health care information and respect a person's right to his or her
24 health care information.

25 (3) To provide for proper enforcement of this chapter, it is the
26 intent of the legislature to allow both private and public remedies.

27

1 NEW SECTION. **Sec. 3.** The definitions in this section apply
2 throughout this chapter unless the context clearly requires otherwise.

3 (1) "Aggrieved person" includes, in addition to any natural
4 person, counties, municipalities, and all political subdivisions of
5 the state.

6 (2) "Health care information" has the same meaning as in RCW
7 70.02.010.

8 (3) "Limited service pregnancy center" means an organization that
9 advertises, offers, or provides abortions, whether for a fee or as a
10 free service, but does not provide medical care for a pregnant woman
11 who chooses to carry her baby to term. "Limited service pregnancy
12 center" does not include health care entities licensed under Title 18
13 RCW, hospitals and entities licensed under Title 70 RCW, or health
14 care providers licensed under Title 18 RCW. A limited service
15 pregnancy center is subject to this chapter notwithstanding the
16 presence of a licensed health care provider in the governance of, on
17 the staff of, or acting as a volunteer with the limited service
18 pregnancy center.

19 (4) "Primary languages" means the five most frequently spoken
20 languages in the state, as determined by the most recently available
21 census data.

22

23 NEW SECTION. **Sec. 4.** (1) A limited service pregnancy center
24 shall make the following disclosures to a person seeking services:

25 (a) That the center may benefit financially from the patient's
26 reproductive choices including but not limited to the decision to
27 terminate one's pregnancy;

28 (b) That the center's mission does not include providing
29 wraparound services and general assistance for the mother or baby if
30 the mother elects to carry her baby to term.

31 (2) The disclosure required by subsection (1) of this section must
32 be provided as follows:

33 (a) Orally, in such a manner as to be reasonably understandable to
34 the person seeking services, upon first communication or first contact

1 with a person seeking services, whether by telephone, electronic
2 communication, or in person; and

3 (b) In writing, as follows:

4 (i) In at least all primary languages, posted (A) on the main
5 entry door of the organization prominently, clearly, and conspicuously
6 and (B) inside the building housing the organization in such a manner
7 as to be clearly visible from the area at which the organization
8 conducts intakes;

9 (ii) In at least all primary languages, clearly and conspicuously
10 on the home page of the organization's web site, in the primary font
11 size used on the web site; and

12 (iii) In any advertisement or notice promoting the center's
13 services.

14

15 NEW SECTION. **Sec. 5.** (1) A limited service pregnancy center may
16 not disclose health care information about a person seeking or
17 receiving the center's services to any other person, entity, or
18 organization without the service recipient's written authorization. A
19 disclosure made under a service recipient's written authorization must
20 conform to the authorization.

21 (2) To be valid, a service recipient's authorization must conform
22 to the requirements of RCW 70.02.030(3).

23 (3) Upon receipt of a written request from a service recipient to
24 examine or copy all or part of the recipient's recorded health care
25 information collected by a limited service pregnancy center, the
26 center as promptly as required under the circumstances, but no later
27 than fifteen working days after receiving the request shall:

28 (a) Make the information available for examination during regular
29 business hours and provide a free copy to the service recipient, if
30 requested;

31 (b) Inform the service recipient if the information does not exist
32 or cannot be found; or

33 (c) If the limited service pregnancy center does not maintain a
34 record of the information, inform the service recipient and provide

1 the name and address, if known, of the entity that maintains the
2 record.

3

4 NEW SECTION. **Sec. 6.** (1)(a) A limited service pregnancy center
5 violating this chapter may be enjoined from continuing the violation.
6 Any person aggrieved by a violation of this chapter may bring an
7 action to enjoin the violation in the superior court in the county
8 where such violation is alleged to have occurred. The superior court
9 shall have authority to grant temporary, preliminary, and permanent
10 injunctive relief to enjoin violations of this chapter. Due to the
11 nature of the harm involved, injunctive relief may be issued without
12 bond in the discretion of the court, notwithstanding any other
13 requirement imposed by statute.

14 (b) Injunctive relief pursuant to this section shall be granted
15 upon proof of a violation by a preponderance of the evidence.

16 (2)(a) Any person who is aggrieved by a second or subsequent
17 violation of this chapter alleged to have been committed by a limited
18 service pregnancy center subject to an injunction under this chapter
19 may seek enforcement of the injunction in the superior court at least
20 thirty days after issuance of such injunction, whether or not the
21 injunction is being appealed. A party seeking to enforce the
22 injunction shall prevail upon proof of a violation by a preponderance
23 of the evidence.

24 (b) If a second or subsequent violation is proved, the superior
25 courts of this state shall have authority to impose appropriate
26 remedies for violation of the injunction as permitted by law and shall
27 impose a civil penalty of up to one thousand dollars per violation.
28 The superior court may also award the party seeking to enforce the
29 injunction the costs of the suit, including reasonable attorneys'
30 fees.

31 (3) The remedies provided by this chapter are cumulative, not
32 exclusive. This chapter may not be construed to limit the right to
33 seek other available civil or criminal remedies.

34

1 NEW SECTION. **Sec. 7.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

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6 NEW SECTION. **Sec. 8.** Sections 1 through 6 of this act constitute
7 a new chapter in Title 70 RCW."

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EFFECT: Changes the definition of limited service pregnancy center to mean an organization that offers or provides abortions, but does not provide medical care for a pregnant woman who chooses to carry her baby to term.

Requires the following disclosures to persons seeking services:

- That the center may benefit financially from the patient's reproductive choices, including the choice to terminate the pregnancy; and
- That the center's mission does not include providing wraparound services and assistance for the mother or baby;

Deletes a requirement that a limited service pregnancy center provide an opportunity for self-administration of an over-the-counter pregnancy test.

Deletes specific requirements related to providing the results of the pregnancy test.

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